

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Establishment of Rules Governing Procedures	)	CI Docket No. 02-32
to Be Followed When Informal Complaints	)	
Are Filed by Consumers Against Entities	)	
Regulated by the Commission	)	
	)	
Amendment of Subpart E of Chapter 1 of the	)	CC Docket No. 94-93
Commission's Rules Governing Procedures	)	
to Be Followed When Informal Complaints	)	
Are Filed Against Common Carriers	)	
	)	
2000 Biennial Regulatory Review	)	CC Docket No. 00-175

**COMMENTS OF SBC COMMUNICATIONS INC.**

SBC Communications Inc. (SBC)<sup>1</sup> files these comments in response to the Notice of Proposed Rule Making released in this docket.<sup>2</sup>

In general, SBC does not object to the concept of facilitating the informal complaint process for “consumers.”<sup>3</sup> Yet, aspects of the Commission’s specific proposals raise concerns. Chief among these is the cookie-cutter approach of making one rule applicable to a variety of different service providers. The present informal complaint rules work well in the common

---

<sup>1</sup> SBC is filing these comments on behalf of its common carrier affiliates. SBC itself is a holding company; however, for convenience, the affiliated common carriers will be referred to as “SBC.”

<sup>2</sup> *Rules Governing Procedures to Be Followed When Informal Complaints Are Filed by Consumers Against Entities Regulated by the Commission; Amendment of Subpart E of Chapter 1 of the Commission's Rules Governing Procedures to Be Followed When Informal Complaints Are Filed Against Common Carriers; 2000 Biennial Regulatory Review*, Memorandum Opinion and Order and Notice of Proposed Rule Making, CI Docket No. 02-32, CC Docket Nos. 94-93 and 00-173, FCC 02-46 (rel. Feb. 28, 2002) (*Notice*).

<sup>3</sup> SBC is unclear about the Commission’s use of the term “consumer.” The term is not defined in the Commission’s rules and is not defined in the *Notice*. While the term *consumer* connotes a natural person with residential service, in fact its dictionary meaning is simply “one that consumes; a buyer.” Thus, a large corporation can be a *consumer* of a common carrier’s services. In the *Notice*, the Commission does not explain why the rules pertaining to informal complaints need to be consolidated and streamlined for large corporate users of common carrier services.

carrier arena, and SBC fears that the attempt to give them wider applicability may make them more cumbersome and less effective.

In the *Notice*, the Commission alluded to this cookie-cutter problem by asking whether the “differences in the characteristics of the various communications-related services regulated by the Commission . . . warrant different informal complaint procedures administered by the Commission.”<sup>4</sup> The Commission rightly noted that, in the case of common carriers and their customers, the parties have a direct contractual relationship. Because of this, when disputes arise, they often involve billing issues or matters implicating the carrier’s tariffs.<sup>5</sup> Occasionally, they may involve quality of service issues.<sup>6</sup> Such disputes are inherently local. The tariffs, and the bills devolving from them, will differ from one jurisdiction to another, and local conditions can give rise to unique quality of service challenges. Often customers have already spoken with a local representative about these disputes. And the local representatives are generally the most knowledgeable about the underlying facts.

Like other common carriers, SBC already directs customers that may have questions or problems to call specific SBC offices. For example, as required by Commission rule, SBC has a toll-free number for customers to call if they have a question about their telephone bill.<sup>7</sup> SBC

---

<sup>4</sup> *Notice* ¶ 7.

<sup>5</sup> In the latest quarterly report issued by the Commission’s Consumer and Governmental Affairs Bureau on the types of complaints the Commission has received from the public, the CGB acknowledged that “[b]illing and rate-related complaints continued to be the largest category of consumer complaints against both wireless and wireline telecommunications service providers, with corresponding high numbers of consumer inquiries regarding these subjects.” *Consumer & Governmental Affairs Bureau Quarterly Report on Informal Consumer Complaints and Inquiries Received*, Executive Summary, released May 7, 2002. (*CGB Report*) This report indicated that approximately 47% of all complaints received in the first quarter of the calendar year 2002 involved “billing and rates.” It is interesting to note that, in the category of “Radio and Television Broadcasting,” the largest category of complaint is “programming – indecency/obscenity,” comprising about 90% of the total number of complaints for that quarter.

<sup>6</sup> Only six (6) percent of all complaints in the first quarter of calendar year 2002 involved “service quality,” which includes poor call reception and service outage. *CGB Report*.

<sup>7</sup> Commission rule 64.2401(d) (47 C.F.R. § 64.2401(d)).

also has installation, maintenance, and repair numbers where customers can voice complaints about the quality of their service. While SBC has worked to consolidate these functions internally, there is still no one point of contact common to all 13 of SBC's states. Given the diversity among the jurisdictions, it would not be reasonable or consumer-friendly for SBC to "maintain a [single] point of contact for receiving complaints and inquiries about [its] products and services."<sup>8</sup> Through its telephone directories, telephone bills, and web sites, SBC already notifies its customers how to contact it with complaints and inquiries.<sup>9</sup> It would not be more convenient for customers to try to access this information through the Commission.<sup>10</sup>

At paragraph 12 of the *Notice*, the Commission asks whether it should "make changes to [the] informal common carrier complaint rules with regard to the types of information and documentation that should be required pursuant to Section 1.716." SBC notes that, in cases where the dispute involves a charge for a service appearing on a telephone bill, it would be helpful for the customer to include a copy of the bill and related correspondence. The Commission is presently proposing to add this requirement for non-carrier regulated entities. SBC recognizes, however, that when the Commission allows certain filing methods — e.g., telephone and Internet email — it is difficult, if not impossible, for the customer to include a copy of any bills and correspondence. Nevertheless, SBC urges the Commission to encourage customers to include such documentation as part of any complaint filing.<sup>11</sup>

---

<sup>8</sup> *Notice* ¶ 9.

<sup>9</sup> For web sites, see: [www.southwesternbell.com](http://www.southwesternbell.com); [www.pacbell.com](http://www.pacbell.com); [www.nevada.com](http://www.nevada.com); [www.ameritech.com](http://www.ameritech.com); and [www.snet.com](http://www.snet.com). All of which can also be accessed through [www.sbc.com](http://www.sbc.com).

<sup>10</sup> As far as common carriers are concerned, this may be a remedy looking for a problem. SBC is unaware of any general inability on the part of its customers to contact SBC with complaints and inquiries. In addition to all the in-house mechanisms in place for customers to call, customers also can lodge complaints with the state commissions. In short, customers of common carriers already have numerous avenues for communicating complaints and inquiries.

<sup>11</sup> If the complaint is taken over the phone or received via email, the Commission should encourage the complainant to give the carrier some idea of which bill is involved. This might include a reference to the month and year in which the bill was received or the month and year the services were provided. In light of the fact that the majority of complaints received by the Commission involve billing and rates, this is important to common carriers. See *CGB Report*.

SBC opposes specifying in the rule itself the time for responding to informal complaints — in this case 30 days.<sup>12</sup> The change to a specific time for responding is actually a movement away from *informality* toward unnecessary *formality*. More important, however, under the present informal complaint rules, the Bureau has the flexibility to establish an appropriate response date. Such discretion ultimately works to the benefit of all. If the Commission were to set the response time by regulation, then, if more time were needed to respond appropriately, the responding party would have to seek a formal waiver. SBC notes that, since September 11, SBC has noticed delays of up to almost two weeks in communications from the Commission to SBC’s agent for service.<sup>13</sup> Removing discretion from the Bureau will make it more difficult for the parties and the Bureau to administer the informal complaint process, especially if the parties have a reason — such as a delay in service — to seek and obtain an adjustment of the response time.<sup>14</sup>

SBC opposes the proposal to amend Commission rule 1.718 “to provide that in all cases involving an unsatisfied informal Section 208 complaint, the period of time allowed for filing a formal complaint that will relate back to the filing date of the informal complaint is sixty days after the staff has informed the parties in writing of its disposition of the informal complaint.”<sup>15</sup> The Commission suggests that this proposal would provide “certainty and clarity regarding the period of time in which a formal complaint . . . must be filed.”<sup>16</sup> SBC disagrees. SBC contends that the opposite will be true. Under the present arrangement, the complainant is fully aware

---

<sup>12</sup> See Notice ¶ 14. Under the present procedures, the Bureau informs the carrier in its notice of the complaint when to respond to it.

<sup>13</sup> Even before September 11, service delays occurred from time to time.

<sup>14</sup> While SBC opposes any change to the rule setting out a specific response time, if the Commission were to enact such an amendment, SBC would urge the Commission to expressly give the Bureau the discretion to waive the application of that time upon an informal request by one of the parties (e.g., oral request over the telephone) or on the Bureau’s own “motion.”

<sup>15</sup> Notice ¶ 22.

<sup>16</sup> *Id.*

upon receipt of the response from the carrier whether he or she is satisfied. Because the date for relating back is tied to the date of the carrier's response, the complainant has all the information he or she needs to know in order to file a timely formal complaint that will relate back. At the end of that six-month period, all parties — complainant, carrier, and Bureau — are fully apprised of the status of the informal complaint and of the relation-back rule.

If, however, the trigger for the deadline were to shift to the Bureau, the carrier would be at a loss to know the status of the complaint. This would inject uncertainty and leave the carrier wondering how long this process might drag on. This has real-world implications, not the least of which is any duty to maintain records. This change would also undermine SBC's statutory right granted by section 415, the statute of limitations. The effect of such an amendment could be to extend well beyond two years the life of a complaint. Statutes of limitations are enacted to prevent the unfairness of having to defend against old claims with stale or non-existent evidence. Not only do memories fade and documents get lost, but personnel changes. Employees quit, retire, or die, and subsequent employees may not always have the necessary information to adequately defend against claims. In short, the present rule in fact affords more certainty and clarity to all — complainant, carrier, and Bureau — than would the proposed amendment and is consistent with the rights granted carriers under section 415 of the Act.

### **Conclusion**

As a general proposition, SBC does not oppose making the informal complaint process truly user friendly. Nevertheless, the specific proposals in the Notice do not appreciably further that goal for customers of common carriers. Because of the "cookie-cutter" problem, SBC recommends a separate set of informal complaint rules for non-carriers. This would avoid the cookie-cutter problem, as well as other ramifications of changing the rules applicable to carriers.

SBC opposes injecting more formality into the informal complaint process. To this end, SBC opposes establishing a formal response time applicable to all informal complaints. SBC also opposes changing the relation-back rule. The rule as presently written affords the parties the

most certainty and clarity. Changing this rule will not only increase uncertainty, it will undermine the carrier's statute of limitations rights afforded by section 415 of the Act.

Respectfully submitted,

SBC COMMUNICATIONS INC.

---

William A. Brown

William A. Brown  
Gary L. Phillips  
Paul K. Mancini  
SBC Telecommunications, Inc.  
1401 Eye Street, N.W.  
4<sup>th</sup> Floor  
Washington, DC 20005

202/326-8904 – Telephone  
202/408-8745 – Fax

Its Attorneys

May 16, 2002